IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Writ Petition No.802 of 2007

Shri Sitaram Dyanu Pawar — Petitioner
Vs.
Sou. Shantabai Sitaram Pawar & anr. — Respondents

Mr.Macchindra Patil for petitioner.
Mr.G.C.Sawant for resp.nos.1 and 2.
Mr.D.P.Adsule, APP for State.

CORAM: B.H.MARLAPALLE, J.

October 17, 2007.

P.C.

. Heard Mr.Patil, the learned counsel for the petitioner - husband. The petitioner is aggrieved by the order dated 8/9/2005 passed by the learned Judicial Magistrate, First Class at Malshiras, Dist. Solapur whereby an application filed under Section 125 of Cr.P.C. by the present respondent nos.1 and 2 came to be allowed. The petitioner was called upon to pay the maintenance at the rate of Rs.400/- per month to the applicant no.1 and Rs.500/- per month to the application no.2 from the date of the application i.e. 1/6/2004. This order was challenged in Criminal Revision Application No.39 of 2006 and the said revision has been dismissed on 27/2/2007.

. The only issue agitated by Mr.Patil is regarding the non-service of the notice issued by the learned Judicial Magistrate, First Class in Criminal Misc. Application No.305 of 2004. The said issue was also agitated before the Sessions Court contending that there were in all three persons by name Sitaram Dnyanu Pawar at village Vatambare, Tal. Malshiras, Dist. Solapur and, therefore, the earlier report that the husband refused to accept the Court notice could not be relied upon. The learned Addl. Sessions Judge considered this and rejected the contentions and held that the notice was properly served on the petitioner - husband.

. Mr.Patil, the learned counsel for the petitioner - husband placed before me purported to be a copy of the report submitted by the police station at Sangola to the effect that there were in all three persons by the same name i.e. Sitaram Dnyanu Pawar and of the same age group in the same village and, therefore, the summons were returned with a request to provide for better details and re-issue the summons. This report is claimed to be dated 28/3/2006.

. However, the learned counsel for the respondent - wife relies upon the report dated 14/3/2005 which was submitted to the Ld. Judicial Magistrate, First Class before the application was decided. As per the said report the summons were sought to be served on the present petitioner - husband but he refused to accept the same. This report was countersigned by Shri A. A. Shaikh of Sangola Police Station i.e. on 14/3/2005 and the learned Judicial Magistrate, First Class passed his order on 8/9/2005 and allowed Criminal Misc. Application No.305 of 2004. Hence there was no reason to file a subsequent report dated 28/3/2006 to the learned Judicial Magistrate, First Class. This subsequent report relied upon by Mr.Patil has been rightly not taken into consideration by the Sessions Court and the Sessions Court was justified in holding that the summons were sought to be served on the petitioner - husband and he refused to accept the same by his own choice.

. I am, therefore, satisfied that both the Courts below did not fall in any error apparent on the face of the record and the petitioner's prayer that he should be provided with an opportunity to

re-contest the application cannot be accepted. It has also been pointed out that not a single penny has been deposited by the petitioner - husband before the trial Court during the last more than two years.

. Petition is rejected summarily.

(B.H.MARL